

## COMMITTEE ON BILLS ON SECOND READING

**August 23, 2005**

**5:15 PM**

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Roy, Sysyn, DeVries and O'Neil

Messrs.: Rick Cantu, Tom Clark, Kevin Dillon, Lt. R. Valenti

Chairman Lopez addressed item 3 of the agenda:

3. Ordinance:

“Amending Section 33.025 (Community Health Nurse) of the Code of Ordinances of the City of Manchester.”

Alderman DeVries moved to recommend that the ordinance ought to pass.

Alderman O'Neil duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 4 of the agenda:

4. Ordinances:

“Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor.”

“Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer.”

“Amending Section 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer.”

Alderman DeVries moved to recommend that the ordinances ought to pass. Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 5 of the agenda:

5. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”

Alderman O’Neil moved to recommend that the ordinance be referred to a public hearing on Monday, September 26, 2005 at 5:30 PM in the Aldermanic Chambers of City Hall. Alderman Roy duly seconded the motion.

Alderman DeVries asked is there anybody here to address this. I have a couple of questions for you on record if you would.

Chairman Lopez stated state your name please.

My name is Ricardo Cantu and I work with the EPD Division.

Alderman DeVries stated it’s my understanding as I look at Section 2 Prohibitive Discharges of the Storm Water Rules & Regulations that this looks like it will give a little bit more beef if you will to the control over any septic tanks that are inferior...is my interpretation correct?

Mr. Cantu replied there are some articles in there for septic tanks and also swimming pools.

Alderman DeVries stated so rather than having to pursue through public health department any septic that might be in failure this is an additional ordinance that might be applicable.

Mr. Cantu replied correct.

Alderman DeVries stated I also had a couple of questions as I read through...as I look at again Prohibitive Discharges...Section I Litter of Urban Ponds, Lakes, Streams or River Banks...and it seems to be designating a 150 foot area to any pond, lakes, streams, rivers so any additional applicability of any littering...this would be the ordinance that should be filed...is that what I'm getting out of this?

Mr. Cantu replied we're looking at the urban pond cleanups...there are some areas...we have the ordinance...when we do the urban pond cleanups there are some apartment buildings and some commercial establishments that had continual problems and that was put in there to kind of address that instead of waiting every six months. If we see issues we would start giving citations to clean this up.

Alderman DeVries stated it's fabulous. I'm not in conflict with any of these. I just wanted to make sure that it was my interpretation that this would be the primary ordinance that we would turn to if constituents bring this to our attention.

Mr. Cantu stated yes if it's close to a water body we could use that.

Alderman DeVries stated so it would go to Highway for enforcement.

Mr. Cantu replied yes.

Alderman DeVries stated the final piece I had was when we were talking about disturbance of...that would be it.

Chairman Lopez asked are there any other questions. There being none, Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 6 of the agenda:

6. Ordinance:

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees.”

Alderman O'Neil moved to recommend that the ordinance ought to pass.  
Alderman Sysyn duly seconded the motion.

Chairman Lopez stated I was hoping the Police Department would have been here. Tom you know they were charging \$85 in the ordinance and they've been charging people towing from private parking lots \$110 how does this eliminate this?

City Solicitor Clark replied this will not affect private lots.

Chairman Lopez stated I just wanted to clarify that because somebody was asking me about that; that's a whole separate issue, right?

City Solicitor Clark replied correct.

Alderman DeVries stated if I could ask for clarification on that because it was my interpretation this was addressing private lots...says any company or person would tow a motor vehicle that made me think it was somebody other than the city.

City Solicitor Clark stated I'm sorry, Alderman.

Alderman DeVries stated I'm asking for further clarification because this ordinance says that any company or person who tows a motor vehicle.

City Solicitor Clark stated I misspoke a few minutes ago, I clarified it with the Clerk. He advised me that this is for non-consensual tows so that it does apply to private lots if it's a non-consensual tow.

Chairman Lopez stated okay that's what I thought.

Deputy Clerk Normand stated this is in line with the towing contract that the Police issue whereas before it was \$50...that was really the issue and why this amendment was sent forth was because we were saying they could only charge \$50 and the Police contract was saying they could charge \$70 and then \$85 after hours.

Chairman Lopez asked I wonder why the Police are not here and this is on the agenda. They should be here.

Deputy Clerk Normand stated to answer your question on the \$110 they're not allowed to do that.

Chairman Lopez asked what are we going to do about it when people come into the City of Manchester and tow a vehicle and charge a person \$110.

Deputy Clerk Normand stated all I can tell you is I've been involved with one action against the company that was doing that and their license was revoked or suspended until they had some issues cleared up. I would suspect that the Police Department are going to continue forward with that and if they have...here you go.

Chairman Lopez stated just in time Lieutenant. Would you please come up and take a seat. We have technical questions.

Alderman O'Neil stated if I recall and the Chair of Traffic is here...I believe the only problem we really had was with one towing company.

Deputy Clerk Normand interjected pretty much.

Alderman O'Neil stated the balance of the operators in the city have been in compliance with zero or very limited issues. Do you remember that, Rick?

Lt. Valenti, Manchester Police Department, replied yes.

Alderman O'Neil stated there was one company that had caused some of the problems.

Chairman Lopez stated I guess the question is coming up in reference to this ordinance on towing...companies are coming in to the private lots and they're charging \$105 to \$110...our ordinance that we're doing here is \$85. What happens when towing companies come into the City of Manchester and they overcharge, what do we do about it?

Lt. Valenti replied it's a violation of the city ordinance...we would give them a summons for that particular ordinance violation.

Chairman Lopez asked have we done any of that since the articles were in the paper where they were charged \$110 on some of the private parking lots? Have you had any complaints...people just don't know what to do?

Lt. Valenti replied we've had some complaints that I've addressed...usually the money is refunded...there's an overcharge obviously. Some of the companies that have done this are not on our contract...they don't have to tow from private lots and be on the city-towing contract. So, some of these companies are not aware of the ordinance though if there's an overcharge. But, once the issue is addressed

sometimes the money is refunded. What happens too is a lot of the people that are overcharged are not interested in going to court. So, if they're not interested in going to court we can't pursue it.

Chairman Lopez asked can a company...Matt, they all have to be registered to come into the City of Manchester?

Deputy Clerk Normand replied all the ones that will be affected by this amendment would have to be licensed.

Chairman Lopez stated if a towing company from Pinardville came in and the owner of a private lot said he has a friend down in Pinardville and have him come in and tow the people out of my lot...would he be authorized to come into the City of Manchester?

Deputy Clerk Normand replied if he's towing in the City of Manchester he would need a license to do so.

Chairman Lopez stated no matter where he comes from.

Deputy Clerk Normand replied correct.

Alderman DeVries stated just a little bit further clarification. There'd be applicability say if you...take my example, I live in a private residential area where if there is towing necessary...not that it's every happened but towing necessary for snow plowing removal would this ordinance be applicable in that case?

Deputy Clerk Normand replied no. This just applies to the non-consensual tows... that applies to the towing contract, I believe, that the Police Department has.

Alderman DeVries stated this would be on private land. Maybe you could define non-consensual tows.

Deputy Clerk Normand stated if an owner of a parcel of property has a car towed that doesn't belong to him...in other words...I want to go to the Verizon for an event...I park at Bee Bee Shoe and whatever happens down there...I obviously don't own it, I walk away, they ended up towing my car for whatever reason that's a non-consensual tow. I didn't give them permission to tow my car. In cases of a snow emergency...my understanding has been that that's under the towing contract. Police call them in and, therefore, the rules of the towing contract apply.

Alderman DeVries stated the difference being...I'm talking on private land...that wouldn't be covered under the snow emergencies on city streets. So, if say an apartment complex needed to authorize in order to clear their lots towing of any vehicles that have not been removed by whatever rules they post there would be applicability under this ordinance, correct.

Deputy Clerk Normand replied yes but there's been one issue that has come up at Washington Park...Lt. Valenti can maybe expand on that but I know that there's been an issue where there has been leases signed and they have agreed...the tenant's have agreed to be allowed to be charged a higher amount. I believe that went to court.

Lt. Valenti stated there was a person that had their vehicle towed out of Washington Park Estates and they were charged an amount that exceeded the ordinance. We brought the tow company to court and what was found was because they had entered into a contract with Washington Park Estates they agreed to have their car towed under certain circumstances that the ordinance didn't apply.

Alderman DeVries stated I think that addresses my concerns being that if this rate wasn't deemed to be profitable that private property owners might have difficulty in snow emergencies getting tow trucks to come in, so if they can enter into a contract and supercede the ordinance then that answers that question for me and I'm all set. Thank you.

Alderman Roy asked for snow emergencies what is the charge to a person who is towed?

Lt. Valenti replied it's \$110 now per tow.

Alderman Roy stated so in our snow emergencies we've deemed that \$110 is a fair price to tow a car but we're limiting the private sector or private landlords to \$85 to get a tow company to come, hook up vehicles, take the vehicle for \$85. Is that my understanding of this?

Lt. Valenti replied yes. What happens is the towing operation phase for the police officers...the money from the cars being towed offsets the cost of the police operation...that's why we're charging \$110.

Alderman Roy stated so the \$110 would take care of the police officer that goes around and deems the cars to be removed.

Lt. Valenti stated yes and the contractor gets \$85 of that.

Chairman Lopez stated you give a copy to every person that's licensed about regulations, is that correct?

Deputy Clerk Normand replied correct.

Chairman Lopez asked are there any other questions. There were none. There being none opposed, the motion carried.

Chairman Lopez addressed item 7 of the agenda.

7. Ordinance:

“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

Alderman DeVries moved to recommend that the ordinance ought to pass. Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 8 of the agenda:

8. Ordinance:

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A.”

Alderman O'Neil moved to recommend that the ordinance ought to pass. Alderman Roy duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez addressed item 9 of the agenda:

9. Proposed ordinance amendment to Chapter 32: Boards, Commissions, and Departments, Section 32.092 Composition; Terms submitted by Michael Poisson, Chairman of the Conservation Commission.



Alderman DeVries moved to recommend that the ordinance ought to pass. Alderman Sysyn duly seconded the motion. There being none opposed, the motion carried.

### **TABLED ITEMS**

On motion of Alderman Roy, duly seconded by Alderman DeVries, it was voted to remove items 10, 11 and 12 from the table for discussion.

10. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

*(Tabled 11/06/2002)*

Deputy Clerk Normand stated this was originally submitted to the Committee on Administration in 2002. At the time, we were having significant issues with outdoor venues and noise that was created by them. This ordinance is a little cleaner than the noise ordinance, which is also number 11. This is something that if someone were having an outdoor concert...could be a local establishment, it could be Fisher Cats venue, it could be anywhere outside that's creating a noise level that exceed 60 decibels and they would be required to get a noise permit from the City Clerk's office. This amendment requires a \$200 noise permit fee... if there's an appeal in the process it would be sent to the Committee on Administration and as you'll see in item number 11 there's some significant differences there on that particular issue. It also increases the fines...I believe the first offense is a written warning, if possible. The second offense, I think, was \$250 and the third offense was \$500 and the fourth and subsequent offenses are \$1,000.

Chairman Lopez stated amid comments in the paper I think noise has been taken care of according to what I've read in the paper. So, this is more of an administrative document that you brought forward here. We're taking it off the table to enact the permit fee plus the oversight by the Administration Committee.

Alderman DeVries moved for discussion. Alderman Roy duly seconded the motion.

Alderman DeVries stated I think my comment would be I think I had caught in the paper that the Rolling Stones concert at Fenway with the decibel level required at the perimeter there was 55 decibels. So, I think the 60 is adequate. My question is when we have a facility such as Derryfield Country Club that had in the past and I don't know...I believe they plan to continue outdoor concerts on their deck... would this ordinance apply to them where it's a city building though it's a private concern?

Chairman Lopez replied it would apply to them they're leasing the building. Tom, I'll let you answer that.

City Solicitor Clark replied they would still have to follow all of the rules.

Chairman Lopez asked are there any other questions. There were none.

Alderman Roy moved to recommend that the ordinance ought to pass. Alderman DeVries duly seconded the motion. There being none opposed, the motion carried.

11. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by repealing Chapter 94: Noise Regulations in its entirety and inserting a new Chapter 94: Noise Regulations.”

*(Tabled 08/17/2004 – revised draft ordinances submitted by Deputy City Solicitor Arnold enclosed herein.)*

Chairman Lopez stated item 11 is a little more complicated. There are two issues on item 11 that I know of unless any other Aldermen have issues with it. Mr. Dillon will speak to one of the issues in reference to 94.30. First of all, let me have Matt read it so it will be in the record.

Deputy Clerk Normand read the ordinance title into the record.

Chairman Lopez requested Mr. Dillon to come forward. The two issues that I know of is 94.11 Exemptions (D) pertaining to “Any ground-based aircraft activity including testing or engine run-up noise.” One of the Aldermen was concerned about it and she can speak to it, if you'd like to.

Alderman DeVries stated thank you very much, Mr. Chairman. Mr. Dillon certainly knows because when this was first tabled at B2R (Bills on Second Reading) we had conversations about this. My concern is that this is a blanket exemption that would be given for any type of ground activity. I certainly understand that when there is an emergency situation, some sort of a...I'll put it in my layman's term...a check engine light in an aircraft they need to do repairs and they need to do engine checks before they can fly again. That is not at all contrary for me. My concern is that if there is a blanket exemption that doesn't have any kind of a review process there could be a new company come in...say FedEx or some other carrier that wishes to provide a northeast regional repair center that would give us Monday through Friday, the hours of operation I think seven in the morning or eight in the morning until five or six at night...the engine run up noise of the jet engines continuously or certainly far more prevalent than what we have today which is rare and occasional though horrendous when it occurs we realize it's rare and occasional and due primarily to emergency situations. So, what I have asked the Chairman is possibly a compromise that would allow this to go through the variance process when this is a dramatic change of use and that would be the variance process that is established under this ordinance, not the Zoning Board, the ZBA variance so that there would be a public hearing as well as some level of awareness of the actual plan and the impact on the surrounding residential neighborhoods. When a jet engine goes through its run up on the runway it's something that you can hear from 93 to the Litchfield line from the Merrimack River to certainly Mammoth Road where I live and probably a little further up Bodwell. It is loud, it is dramatic and it's not something I would invite by exemption. I would want to be aware of how that might be coming in.

Mr. Kevin Dillon, Airport Director, stated you are correct that what's happening today...that run ups today are typically only done or could be characterized as emergency situations...if there is a mechanical issue on an aircraft that requires servicing to the engine they are required to run up the engine before the aircraft could be put back into service. Today that's essentially the only type of run up that's being done. In terms of your concern regarding...I guess I'm not really understanding the full concern as to who would come in and be doing run ups on a routine basis as part of routine maintenance but quite frankly the airport does review any submittals that come in for people requesting additional space at the airport or to bring additional businesses. I think...my recommendation would be that it's probably not the best approach, in my opinion, to try to regulate this type of activity through ordinance but rather try to deal unique issues through airport policy. For example, we routinely try to discourage different types of activity during nighttime hours and the reason why I say it's best to deal with this through airport policy...there's two very specific issues that I would be concerned about and I'm sure the City Solicitor could probably talk a little bit more about some of

these. We have federal grant assurances that assure that we're maintaining the airfield for aeronautical activities and this would fall under the definition of the required aeronautical activity. So, we would not be able to ban or upset the airport. The other issue that I would ask the Board to consider is that our run up location are not in the City of Manchester, they're in Londonderry and I don't know how we would go about enforcing a city ordinance within the jurisdiction of Londonderry. Again, some factual concerns but generally as I said I don't think it's a good idea to try to regulate aeronautical operations through ordinance. I think that should be done through airport policy if there is any.

Alderman DeVries stated I would just like to address the activities taking place in Londonderry and I certainly do not envision that I have the authority to regular in Londonderry and I'm not quite sure how that might work where some of Londonderry's oversight may have been limited, I believe, at least through Planning Board activities...it's somewhat limited but I believe that they would still have some ordinance if they wished to execute it, the ability to have an ordinance pertaining to noise if they ever wished to execute it that's their problem and I'm not looking to regulate on their behalf nor do I have the authority to. I would look at this...once again, if we had some major carrier wanting to establish a maintenance shed for all of the northeast corridor...activity that doesn't take place there today would be coming possibly to Manchester and that's what I'm looking to say if we are going to have a dramatic change like that that is going through to create quite a bit of noise nuisance the public needs to have the ability to interface and to understand what is being asked of them before the lifestyle change happens once again. And, that's why I offered the ability for it to be handled through a permanent variance not each time they go for a run up.

Chairman Lopez stated for clarification...are you saying that if this were to ever happen in Manchester that you'd like to have a public hearing in reference to it?

Alderman DeVries replied absolutely. I think the public deserves the right to know what might be changing.

Alderman Roy asked right now run ups last how long and how often.?

Mr. Dillon replied typically 30-seconds in duration. What you may be referring to when this sustained noise level...I think that was a totally different operation. I think what we were talking about and we kind of protracted through runway grooving but a run up typically will be done in a 30-second duration. Now, there could b multiple 30-second durations.

Alderman Roy asked would a fair compromise that may please the Alderman and still protect our airport is a time frame put on the exemption...no longer than 1-hour per day, something that would make it less attractive to a maintenance shed.

Chairman Lopez stated I think it's a policy...it's sort of like a micro-managed aspect but I think Alderman DeVries' concern is and she can correct me if she's wrong that if any time a company would come into the City of Manchester and be doing that type of work at least the public should be aware and have a public hearing noting the airport is going to be doing this.

Alderman O'Neil stated I would have liked the opportunity to talk to Alderman DeVries about this. I don't call regularly but I know that anytime I've called the airport specifically Mr. Dillon issues get addressed so if there is some abuse going on up there...I don't particularly think there is...every section of the City of Manchester hears airplanes. I live up on Hanover Hill I hear airplanes...I won't say it's a trade off but I think the public has come to accept that there is going to be some noise with having a very active and vibrant airport and if we had a department head sitting here that didn't address the issues of the citizens of this city I'd say yeah maybe we need to put some stronger language in there, but I know anytime whether it's noise issues or other issues related to the airport I can call the airport on whether it be Mr. Dillon or any of his staff the issues get addressed and, in my opinion, in the best interest of the citizens of this city. I can't comment about how they address Londonderry, I don't represent Londonderry but I'm very comfortable with how things are currently, how they get addressed...I don't put it any different than traffic issues around the city. We try to address them but I think personally this would handcuff the airport in some ways and again if I didn't have all the faith in the world in our director and his staff. I have not known him on any occasion to not address the issues of the citizens of the city.

Alderman DeVries stated I'll say it again. Today, the airport only deals with emergency situations where they need to do some sort of a repair or check on an engine that they have found some piece to be in failure. I am not trying to regulate that, I want that to occur before I take off in any airplane, please and that is not a problem today. There are very rare occasions today and it's probably been close to two years since the last time I received a volley of phone calls and it was on a Saturday evening...it started at maybe 5:30 and it went until eight o'clock with a jet engine a full rev ready to take off type rev and what is the noise level of a jet engine when they're fully revved up ready to take off.

Mr. Dillon replied in some cases it could be up to 100 decibels.

Alderman DeVries stated it could be up to 100 decibels...we just regulated rock and roll concerts at 60 decibels. If that 100 decibels noise were...the changes used at the airport to occur for protracted hours on end, days on end you are going to devastate the neighborhoods surrounding the airport, it will devastate Ward 9, Ward 8, Ward 6 would know it because it is loud if it is sustained and all I am saying is that a blanket exemption that says that we have no regulation over that to me is we are not doing our job that we have to allow the emergency repairs and the run ups but if there is ever going to be something that is going to give us loud protracted noise we need to have the ability to understand what the use is and to decide is he telling us it is going to be five times a week for 30 second blasts... then reasonable people would likely say that might be okay but that's what I'm looking for...whatever the change is going to be of something other than what occurs today on the ground we need to have the ability to understand what it is before we give a blanket exemption that could devastate the quality of life for a significant portion of the southend.

Chairman Lopez stated just clarify something for me. The terminology...run up... is that only done in Londonderry you said right now.

Mr. Dillon replied right now our run up location's are in Londonderry.

Chairman Lopez asked is there anticipation of doing it in the Manchester area that you know of right now?

Mr. Dillon replied we have no reason to change the locations. Again, when I say it's located in Londonderry essentially it's located in a area where we feel you're protecting the residential areas from direct engine jet blasts. Noise that's emanating from that jet blast so I don't want you to think...I certainly don't want anybody who's watching this to think that well it's the City of Manchester so we put this in Londonderry...that's not the case, we're picking a location at the airport that makes sense for us and if that location was in Manchester we would put it in Manchester. Quite frankly, the aircraft can be positioned in Londonderry and the jet engines are actually facing Manchester so it could be a worse situation for Manchester having it in Londonderry. So, I want to make sure that point is understood. But, I'd like to speak to the issue and I'm not trying to minimize the Alderman's concerns but quite frankly even if there were ever a time where an aircraft operator wanted to bring a significant maintenance base to the airport the frequency of engine run up would not be every five minutes somebody's going out to run up an engine. Typically, they're bringing in one or two aircraft a night to work on. The word does not always include engines. So, you may be having... even if you had a maintenance base just a couple of run ups per week and again it's not a prolonged activity. It is a 30 second duration...they have to take the

aircraft back do additional adjustments to the engine and then bring it out maybe an hour later do another 30 second run up duration. Again, I really believe that the level of run ups that are conducted today as well as anything that I could foresee at the airport is relatively limited. Again, I do want to stress the point though that I think it's best to try to regulate these activities through airport policy that's issued at the airport versus ordinance because you're colliding with a couple of issues that we have here to translate this into an ordinance. As I said I don't want to minimize and the city should not minimize the grant assurances that the city has signed off here saying that this airport will be open to all types of aeronautical activity...we can't start discriminating between one airline who wants to bring this type of activity versus another type of activity. The airport...we signed a grant assurance saying that we will operate this airport 24 hours a day for all aeronautical activities and this is an aeronautical activity that would fall under those grant assurances. The other item that I would like to bring to your attention is that as I said even if we were to try to regulate development of different businesses coming in quite frankly because of the way that the airport's situated those businesses most likely would be on the Londonderry side of the airport and I'm not too sure...I guess Tom could answer this better than I can but quite frankly I don't see how you would enforce a Manchester ordinance on the Londonderry side of the airport. I think the best way to try to regulate this activity is to allow the airport to establish policy that we can work with the airlines, try to work in their best interests as well as the airport's best interests.

Alderman Roy asked Mr. Dillon if you were able to do this through airport policy would that regulate the Londonderry side as well as the Manchester side of the airport?

Mr. Dillon replied yes. What I would envision is that we would establish a policy at the airport that says it's the policy of the airport to limit run ups at the airport to an absolute minimum and between the hours of midnight to seven...whatever we would establish as hours that we would prohibit run ups with the exception of emergencies that would have to be approved in advance by the airport. That's a policy that I believe we could put in place, still stay within the grant assurances that we've signed and give us the ability to regulate the activity and then again no matter what airline establishes what business at the airport that would still be a policy that would be put in place.

Alderman DeVries stated if the airport was to put policy in place what would it take to change that policy?

Mr. Dillon stated the Airport Director's position is charged with establishing operating policies for the airport, I would suspect that anytime the Airport Director would be able to adjust those policies.

Alderman DeVries stated not to be mistrusting because the airport has dealt in very good faith with us I would feel more comfortable if we take this blanket exemption off the table today, that we have a further discussion with you on your airport policy piece and maybe we can reinstate later this exemption item (D)...we can reinstate it with a reference to the policy that you will be developing so that it is referencing a specific policy made at a certain time. So, we have some level of understanding in our ordinance as to what it was we exempted and that just means that when you come back if you wish to do a policy change in the future you would also have to come back to the Aldermanic Board to do an ordinance change with us...that gives us an ability to interact. I realize there are other pieces of the noise ordinance that we want to have go forward, I'm dealing with motorcycle noise, etc. Rather than hold this up for another year why don't we take item (D) out of there today, pass the remainder of the ordinance if other Aldermen so wish. Work on your policy and then we can come back in and rewrite another exemption referencing that specific policy that you have endorsed along with us.

City Solicitor Clark stated the problem I see with that, Alderman DeVries, is that if you take it out of the exemptions then the noise controls do apply and you're going to be trying to enforce against airlines. At this point, it sounds like Director Dillon has some concerns. I concur with a lot of his concerns about aeronautical activities and the grant assurances...there are certain things we just can regulate at an airport. It may be appropriate just to refer this whole thing back to staff so that they could sit down with the Airport Director and others to try and work it out.

Alderman O'Neil stated I certainly, greatly appreciate Alderman DeVries' drive since she became Alderman to make the quality of life better not only for the residents of the southend but the entire city related to the airport but again I want to go back to the fact that for me anytime there's been an issue I've called the airport and the issue's been addressed. I just think that this is...I just have all of the faith in the world in Kevin in making sure this issue is addressed. I think he's hearing Alderman DeVries' concern loud and clear but I can't see tying up...this thing has been sitting here for almost a year, the Director has said he is going to implement a policy to address this issue, I take his word and with that I will move on the noise ordinance.

Alderman Sysyn duly seconded the motion.



Chairman Lopez stated I think that if a department head has made policy and the Board has collectively disagreed with that policy we could do something about it by getting staff to review it, by getting the city attorney to review it and make some type of recommendation to this committee or the full Board which you concur with that.

City Solicitor Clark stated that is correct. If the Aldermen disagree with the policy adopted by a department they have the right to direct the department to change it so long as it doesn't conflict with contractual obligations.

Chairman Lopez stated the second thing is that we have the opportunity on any document or ordinances to bring in a change and take it before any committee and get it approved by the committee or the full Board at any time.

Deputy Clerk Normand stated there's one other conflict that comes up in this ordinance...what you just passed as item #10...under 94:30 (B) (4) creates a Noise Variance Board...

Chairman Lopez stated I was going to bring that up as my second item and I'll let you explain it.

Deputy Clerk Normand stated the previous amendment at least a section, which talks about the noise permit, which you just allowed in item #10 the appeal goes to the Committee on Administration. This version which came obviously several years after the original amendment that you just passed this one calls for a Noise Variance Board rather than the Committee on Administration. There's also some minor conflicts...the \$75 for an application versus the \$200 that just passed but I think the biggest is the Noise Variance Board...I know there's been some discussion about that and some problems with that.

Chairman Lopez stated there is and I agree with you wholeheartedly that in item 310 the Administration Committee handles it and I've talked to Tom Arnold and the City Clerk...are we creating too many people here...we haven't had any major problems to have six other people sit around when we have a standing Committee on Administration to handle this. The only area that should go back to staff would be this individual that is supposed to be an expert on noise...acoustic engineering or mechanical or civil engineer individual on the Noise Variance Board. So, if the Administration Committee has the authority to take the appeals what would we do for the special qualifications of that mechanical engineer.

Deputy Clerk Normand replied certainly just like what currently happens if an expert would be required obviously they would get this on their agenda or they would get advance notice of this. If they felt they needed some expert opinion they could certainly call anybody in at any time. I've been here for a while so there's one been one other time in ten issues that an issue has even come up before the Committee on Administration and that was for Singer Park when it was still Singer Park and at that time they brought in a noise person to discuss issues and how best to deal with the concerts that were going on down there and that certainly could apply here and if it got to be a heavy burden which I don't think it would be but if it came to a point where so many appeals were coming to the Committee on Administration you could revisit this and create a Noise Variance Board if you wanted.

Alderman Roy stated with that suggestion I would like to make a friendly amendment to the motion that the wording of Noise Variance Board be deleted and the Committee on Administration administers this as well as the fee be the higher of the two proposed between agenda items #10 and #11...the \$200.

Chairman Lopez asked is that an amendment to the motion.

Alderman Roy replied yes, Sir.

Alderman Sysyn duly seconded the motion to amend the ordinance as outlined. There being none opposed, the motion carried.

Chairman Lopez called for a vote on the motion to recommend the ordinance ought to pass as amended. The motion carried with Alderman DeVries duly recorded in opposition due to the inability to compromise on the exemption.

12. Shoreland Protection Act.  
*(Originally tabled 01/24/2005. Retabled 04/04/2005 pending Planning Director's advice.)*

Deputy Clerk Normand noted that Robert MacKenzie, Director of Planning, was not present.

Alderman Roy moved to retable the Shoreland Protection Act. Alderman DeVries duly seconded the motion. There being none opposed, the motion carried.

Chairman Lopez requested the Clerk forward a letter to Mr. MacKenzie requesting he provide the necessary information, which had been requested. Is there any other information you may have on that, Alderman DeVries?

Alderman DeVries replied no. I think we were actually looking to amend the setbacks that were permitted with that and he was working on that for us.

There being no further business to come before the Committee, on motion of Alderman Roy, duly seconded by Alderman DeVries, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee